



# DEFENSE LOGISTICS AGENCY

AMERICA'S COMBAT LOGISTICS SUPPORT AGENCY



## Protests & Disputes

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# What is a Protest?

- Written Complaint Regarding a Procurement
- Can Anybody Protest?
  - Must be an Actual or Prospective Offeror with a Direct Economic Interest in the Procurement



# Why Does the Government have a Protest System?

- The Deficit Reduction Act of 1984
  - - Competition in Contracting Act (CICA): Goal was greater use of Competitive Procedures
  - - “shining the light of publicity on the procurement process”
  - - To ensure that federal procurements are conducted reasonably and in accordance with applicable statutes and regulations.



# 3 Different Types of Protests

- Contracting Officer
- Agency-Level in Accordance with Executive Order 12979
- Government Accountability Office (or Court of Federal Claims)



# CICA STAY (i.e., the stop work order)

- Purpose of the Stay is to maintain a “status quo”
- Pre-Award: Can't make the Award
- Post-Award: The 10/5 Rule
  - Protest received within 10 days of award or within 5 days of a timely *requested and required* debriefing.



# Nature of Protest Review:

- Is the solicitation/award in accordance with law/regulation?
- Is the Agency action reasonable?



# How is a Stay lifted?

- CO or Agency-Level Protest: Usually a decision on the Protest (alternately an override)
- GAO Protests: Either a decision on the protest (takes up to 100 days) or a stay override by Head of Contracting Activity (based on either Urgency or Best Interests of Government)



# What is Not Protestable

- Contract Administration. The protest review is the reasonableness of the contracting officer's award decision – the contracting officer is entitled to rely upon the representation of the offeror. **HOWEVER:** if something is not right: the contracting officer wants to know (i.e., we want to get it right).





# Other Types of Protests

- Small Business Size-Status Challenges
- NAICS Code Challenges



# Disputes

- Governed by FAR 52.233-1
- Rare
- Typically Resolved Informally by the Contracting Officer
- Formalized by the Submission of a Claim

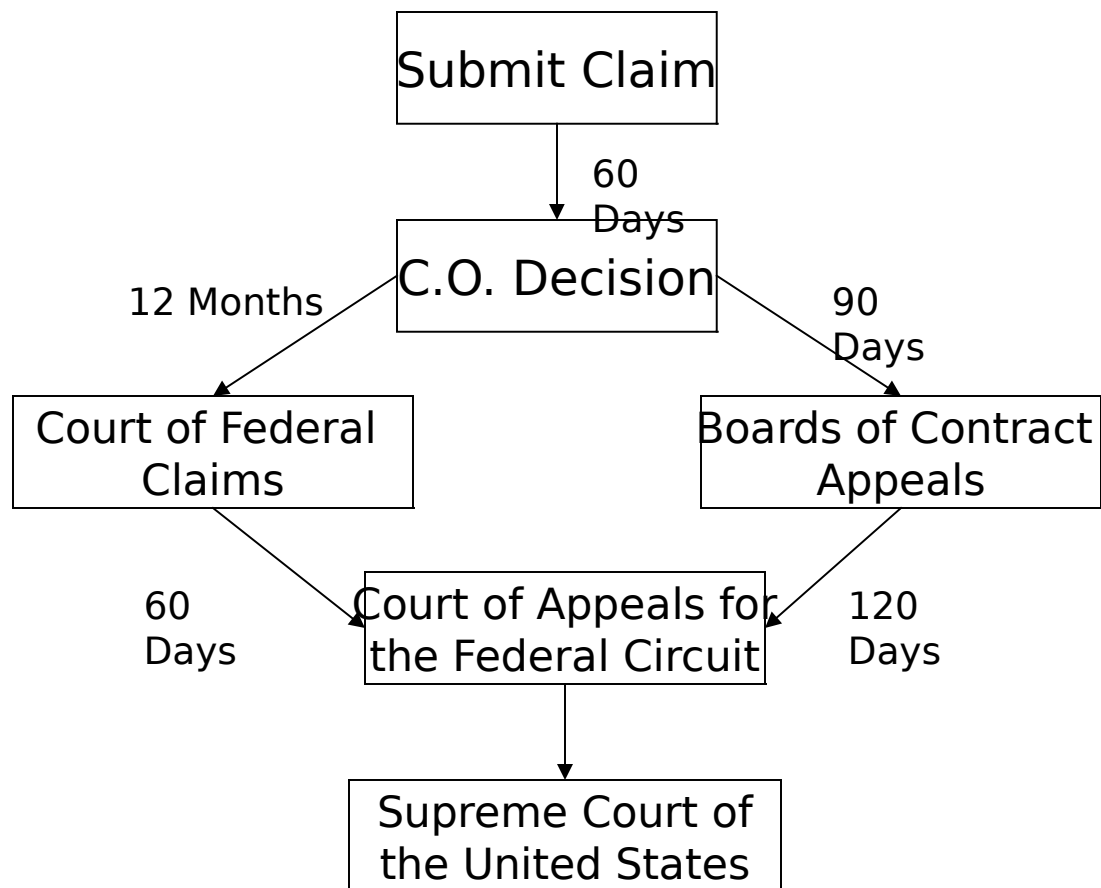


# Claims

- Must be submitted within 6 years of when the claim accrued.
- Contractor has a duty to proceed. See FAR 52.233-1(i).



# Disputes Process





# Contact Information

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